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an action for the price of machinery claimed to have been sold to defendant personally, where it appeared that after the sale plaintiffs took the notes of a corporation organized by defendant for the indebtedness, but not with the intention of releasing defendant from liability, an instruction that certain letters, passing between plaintiffs and defendant before the sale, constituted a contract of sale binding the parties to its performance in accordance with the provisions of the letters, could not have misled the jury to defendant's prejudice; the letters in fact constituting the contract.

[Ed. Note.—For other cases, see Sales, Cent. Dig. § 1068; Dec. Dig. § 364.* See note 3 Va.-W. Va. Enc. Dig. 532; 1 id. 269.]

Error to Circuit Court of City of Norfolk.

Action by Steele & Sons against R. B. Fentress. Judgment for plaintiffs, and defendant brings error. Affirmed.

The oral testimony excluded as to the interview between defendant and the plaintiffs' representative on August 18, 1906, was that defendant explained to plaintiffs' agent that he was preparing to organize a company to manufacture brick, and wished to arrange to purchase machinery in order not to lose time, and stated that, as soon as the corporation was organized, it would be the debtor and plaintiffs should look to it for payment, as defendant was simply arranging for its purchase.

Jeffries, Wolcott, Wolcott & Lankford, for plaintiff in error.
Hugh W. Davis and *E. R. F. Wells*, for defendants in error.

BRADLEY v. CITY OF RICHMOND.

Jan. 13, 1910. Rehearing Denied.

[66 S. E. 872.]

1. **Licenses (§ 9*)—Imposition—Validity.**—Where an ordinance imposing a license tax was published in a daily newspaper the required number of times, and a person subject to the tax appeared before the finance committee of the council and asked for an abatement of the tax, he could not complain of the ordinance on the ground that the council did not designate the newspaper.

[Ed. Note.—For other cases, see Licenses, Dec. Dig. § 9.* 10 Va.-W. Va. Enc. Dig. 608.]

2. **Licenses (§ 7*)—Validity.**—The imposition of a license tax by a city on private bankers is not in conflict with Const. 1902, § 170 (Code 1904, p. cclxii), providing for the imposition of license taxes on any business that cannot be reached by the ad valorem system.

[Ed. Note.—For other cases, see Licenses, Dec. Dig. § 7.* 9 Va.-W. Va. Enc. Dig. 310.]

*For other cases see same topic and section NUMBER in Dec. & Am. Digs. 1907 to date, & Reporter Indexes.

3. Licenses (§ 7*)—"Double Taxation."—It is not "double taxation" to impose a license tax on a business and at the same time to tax the capital used by the ad valorem system.

[Ed. Note.—For other cases, see Licenses, Cent. Dig. § 14; Dec. Dig. § 7.* 9 Va.-W. Va. 322; 13 id. 88.]

For other definitions, see Words and Phrases, vol. 3, pp. 2186, 2187.]

4. Licenses (§ 7*)—Validity.—Where certain private bankers in a city were assessed a license tax, it was not in conflict with a section of the charter providing that taxes shall be equal and uniform.

[Ed. Note.—For other cases, see Licenses, Cent. Dig. § 8; Dec. Dig. § 7.* 9 Va.-W. Va. Enc. Dig. 307.]

5. Taxation (§ 25*)—Power to Tax—Discretion.—Where the power to tax for revenue exists, the amount of the tax is in the discretion of the legislative body, and it may be carried to any extent.

[Ed. Note.—For other cases, see Taxation, Cent. Dig. § 59; Dec. Dig. § 25.* 13 Va.-W. Va. Enc. Dig. 77, et seq.]

6. Licenses (§ 7*)—Validity.—An ordinance imposing a license tax of \$800 on a private banker is not invalid as unreasonable.

[Ed. Note.—For other cases, see Licenses, Cent. Dig. § 15; Dec. Dig. § 7.* 13 Va.-W. Va. Enc. Dig. 77; 9 id. 310.]

7. Constitutional Law (§ 68*)—Validity of Licenses.—Where a city has power to impose a license tax on any person that cannot be reached by the ad valorem system, the city must determine primarily whether a particular business can be reached by the ad valorem system, and its discretion in the matter cannot be interfered with by the courts, except in a case of plain departure from the constitutional requirement.

[Ed. Note.—For other cases, see Constitutional Law, Cent. Dig. §§ 125-127; Dec. Dig. § 68.* 9 Va.-W. Va. Enc. Dig. 310, 311.]

8. Licenses (§ 7*)—Uniformity of Taxation.—Const. 1902, § 168 (Code 1904, p. cclxii), providing that all taxes shall be uniform upon the same class of subjects, does not apply to license taxes.

[Ed. Note.—For other cases, see Licenses, Cent. Dig. § 9; Dec. Dig. § 7.* 9 Va.-W. Va. Enc. Dig. 307.]

9. Licenses (§ 7*)—Validity.—An ordinance imposing a license tax on certain private bankers, who were grouped in a class, was not invalid, in the absence of a showing that the classification was illegal, in that the business discriminated against was the same as that included in a class alleged to be favored.

[Ed. Note.—For other cases, see Licenses, Cent. Dig. §§ 9, 10; Dec. Dig. § 7.* 9 Va.-W. Va. Enc. Dig. 307; 10 id. 171; 14 id. 652.]

10. Constitutional Law (§ 287*)—Due Process of Law—Licenses.—A city code provided that the finance committee, after making classifi-

*For other cases see same topic and section NUMBER in Dec. & Am. Digs. 1907 to date, & Reporter Indexes.

cation for the purpose of license taxes, should return the same to the auditor, who should advertise the fact, that the classification might be inspected in his office, and that the committee should hear all persons complaining of the assignments, and gave a right of appeal to the city council. Held, that an ordinance imposing a license tax was not a denial of due process of law.

[Ed. Note.—For other cases, see Constitutional Law, Cent. Dig. §§ 831, 905; Dec. Dig. § 287.* 10 Va.-W. Va. Enc. Dig. 608; 14 id. 796.]

11. Licenses (§ 6*)—Validity.—A city, having authority to impose a license tax on any business that cannot be reached by the ad valorem system, may impose a license tax on private bankers.

[Ed. Note.—For other cases, see Licenses, Cent. Dig. §§ 5, 6; Dec. Dig. § 6.* 9 Va.-W. Va. Enc. Dig. 310.]

Error to Hustings Court of Richmond.

F. S. Bradley brings error to review a judgment imposing a fine on him for failure to pay a license tax to the City of Richmond. Affirmed.

WASHINGTON LUNA PARK CO. *v.* GOODRICH.

Jan. 13, 1910.

[66 S. E. 977.]

1. Theaters and Shows (§ 6*)—Amusement Devices—Operation—Roller Coaster—Injuries to Passengers—Declarations.—Where a declaration alleged that defendant amusement company operated a roller coaster consisting of several cars, and that plaintiff without negligence on his part, having paid his fare, was accepted as a passenger, and, on defendant's invitation, took his place on the coaster, which was so negligently operated by defendant as to collide with another car, resulting in plaintiff's injury, the declaration was not defective for failure to describe the construction and operation of the coaster, and stated a cause of action.

[Ed. Note.—For other cases, see Theaters and Shows, Dec. Dig. § 6.* 11 Va.-W. Va. Enc. Dig. 239, et seq.; 10 id. 399.]

2. Appeal and Error (§ 1048*)—Reception of Evidence—Prejudice.—In an action for injuries, the asking of a series of questions of plaintiff to show the effect of his injury on his business, which he was unable to specifically answer, was not prejudicial to defendant.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. §§ 4140-4145; Dec. Dig. § 1048.* 1 Va.-W. Va. Enc. Dig. 592.]

*For other cases see same topic and section NUMBER in Dec. & Am. Digs. 1907 to date, & Reporter Indexes.